

AUTHORIZE PAYMENT OF TRANSPORTATION AND TRAVEL ALLOWANCES TO ESCORTS OF DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES UNDER CERTAIN CONDITIONS

JULY 24, 1959.—Ordered to be printed

Mr. SALTONSTALL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H.R. 3322]

The Committee on Armed Services, to whom was referred the bill (H.R. 3322), to amend title 10, United States Code, and certain other laws to authorize the payment of transportation and travel allowances to escorts of dependents of members of the uniformed services under certain conditions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This bill would—

1. Authorize the payment of transportation and travel allowances for escorts of military dependents authorized to travel at Government expense who would otherwise be required to travel unaccompanied under unusual and extraordinary circumstances.
2. Authorize such payments to persons who have acted as escorts under these circumstances since January 1, 1950, if they have not received reimbursement.
3. Validate payments previously made for this purpose where the travel was directed and performed.
4. Relieve disbursing officers from responsibility for payments for this purpose that have already been made.

EXPLANATION

On rare occasions dependents of military personnel must be moved from one location to another in circumstances where they require accompaniment but their military sponsor or parent is unable to accompany them. An instance of this type occurred in 1958 when an Air Force sergeant and his wife were killed in an automobile accident in Turkey. Two children, one aged 6 years and one aged 6

months, were injured. One of the children sustained a broken leg and required extensive hospitalization. The other child was less seriously injured and, after a short period of hospitalization, was placed in the care of friends of the deceased parents. The Air Force had the problem of seeing that the children were returned to the United States and delivered into the custody of members of the family who could be responsible for them.

This bill contemplates authorization of the travel allowances of a person to be designated as an escort in such circumstances.

For several years the military departments have designated escorts for such a purpose. As early as 1951, the General Accounting Office noticed, but did not take exception to, occasional vouchers representing reimbursement for travel by persons acting in an escort capacity. Although the authority for such practice was not explicit, the military departments considered that such authority existed and that the departments had a responsibility to both a member and to the public to provide escorts for dependents in these unusual instances.

In 1956, the Comptroller General ruled that in the absence of specific statutory authority the payment of travel and transportation allowances for escorts in these circumstances could not be allowed.

PROVISIONS OF THE BILL

The bill provides that under regulations to be prescribed by the appropriate Secretaries and approved by the Secretary of Defense, round-trip transportation and travel allowances may be paid to any person for travel under competent orders as an escort for dependents of a member of the Armed Forces if the travel is performed no later than 1 year after the member dies, is missing, or is otherwise unable to accompany his dependents. For such allowances to be payable, it also must be determined that travel by the dependents is necessary and that they are incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

The bill validates those travel and transportation allowances paid before the effective date of the bill if the allowances are otherwise authorized under section 1 of the bill. Persons who have performed such travel since January 1, 1950, and who have not been paid for it, or those who have been required to repay to the United States amounts paid to them for this purpose, would be entitled to receive payments for this purpose. Appropriate provision is also made for relieving disbursing officers from responsibility for erroneous payments to escorts before the effective date of this measure.

COST

The Department of Defense estimates that the cost of this authority would be negligible and that it can be absorbed within available appropriations. The retroactive cost of the bill is estimated at about \$1,600.

DEPARTMENTAL RECOMMENDATIONS

Printed below and hereby made a part of this report is a letter from the Deputy Secretary of Defense dated December 23, 1958, indicating that this measure is sponsored by the Department of Defense and that the Bureau of the Budget has no objection to it.

THE SECRETARY OF DEFENSE,
Washington, December 23, 1958.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend title 10, United States Code, and certain other laws to authorize the payment of transportation and travel allowances to escorts of dependents of members of the uniformed services under certain conditions, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1959, and the Bureau of the Budget has advised that it has no objection to its submission to the Congress. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is (a) to authorize the payment of travel and transportation allowances to any person who, under competent orders, acts as an escort to accompany dependents of a member of the uniformed services if the member is dead, missing in action, or otherwise unable to accompany his dependents and the dependents are incapable of traveling alone, (b) to validate any such payments heretofore made, (c) to authorize payment to those who have heretofore been ordered to perform such travel and have not been paid travel and transportation allowances and to authorize payment of amounts repaid, and (d) to relieve disbursing officers from accountability or responsibility for any such payments previously made which are found to be free from fraud or collusion.

Regulations that would be promulgated under authority of this proposed legislation would be subject, by operation of law, to the provisions of section 4 of the act of September 2, 1957 (71 Stat. 597), which added section 534 to the Career Compensation Act of 1949. That section provides that such a regulation may not be prescribed by the Secretary of a military department unless it is first approved under procedures prescribed by the Secretary of Defense. Regulations of the Secretaries of the Treasury, Commerce, and Health, Education, and Welfare with respect to the Coast Guard, Coast and Geodetic Survey, and the Public Health Service, respectively, which relate to similar items of pay and allowances, shall to the extent practicable, agree with regulations so approved within the Department of Defense.

Section 303 of the Career Compensation Act of 1949 (63 Stat. 802) provides authority for the payment of travel and transportation allowances to a member of the uniformed services while performing travel under competent orders for any periods when the member is away from his designated post of duty. This section also authorizes the Secretary of the department concerned to prescribe (a) the conditions under which travel and transportation allowances are to be authorized and (b) the allowances for such travel. The Secretary concerned is also authorized to provide transportation for dependents and baggage and household effects upon the death of the member. Section 303(g) specifically provides that the "Secretaries concerned shall determine what shall constitute a travel status."

The joint travel regulations, issued in part to implement the above provisions of law, provide that members are entitled to travel and

transportation allowances only while actually in a travel status and that members are in a travel status while performing travel away from their permanent duty station upon public business, pursuant to competent travel orders.

The Judge Advocate General of the Navy, in an opinion dated December 23, 1953, and coordinated by the Judge Advocates General or the Army and the Air Force, interpreted the above provisions of law, as implemented by the joint travel regulations, as sufficient authority for the issuance of travel orders authorizing travel and transportation allowances for an escort to accompany the dependents of a member of the uniformed service to their home in those cases where the member has died, was missing, or who because of duty assignment was unable to do so. The opinion pointed out that if, in the sound discretion of a competent authority, the best interest of the Government would be served by ordering an escort to accompany the dependents of members under the circumstances specified above, the escort was in a travel status and therefore entitled to payment of travel and transportation allowances. Subsequent to this opinion, it was Air Force policy and practice to authorize and pay travel and transportation allowances to escorts under the conditions outlined above.

On October 1, 1956, the Assistant Comptroller General held (decision B-127228) that, while there were worthy humanitarian reasons for providing such escorts for dependents, in the absence of specific statutory authority, payments of travel and transportation allowances to members authorized to accompany dependents of deceased or missing members were improper, and any such payments heretofore made should be collected from the payee concerned. These payments were made and received in good faith for expenses incurred by the escort while performing a service for the Air Force. It is the opinion of the Department of Defense that the Government's responsibility to the member for the care of his dependents does not cease at the death or placement in a missing status of the member. On the contrary, this duty is increased and brought into sharp focus by the death of the member or by a member's inability, through no fault of his own, to provide the necessary care for his dependents. It is believed that the responsibility of the Military Establishment to effect and supervise the relocation of the dependents and to assist those incapacitated by age, or physical or mental condition, in returning to their home is a matter of public trust. There are instances which necessitate the assignment of an escort to accomplish this relocation. It follows that if an escort is assigned to accompany the dependents, the escort should be entitled to travel and transportation allowances while he is performing a service for the Government. This proposal has been made applicable to "any person for travel performed or to be performed under competent orders as an escort for dependents" when it has been determined that the services of an escort are required. Both from the viewpoint of the dependent's desires and the convenience of the Government, there will be instances where it is preferable to appoint a personal friend of the dependent or a Red Cross representative to act as an escort, rather than to establish a requirement that the escort be a member of the uniformed services.

COST AND BUDGET DATA

Although it is impossible to estimate accurately the increased cost that will result from the enactment of this proposal, it is anticipated that such cost will be negligible and can be absorbed within present appropriations.

Sincerely yours,

DONALD A. QUARLES, *Acting*.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate there is printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill.

EXISTING LAW

THE BILL

CHAPTER 53—MISCELLANEOUS
RIGHTS AND BENEFITS

* * * * *

1036. Escorts for dependents of members: transportation and travel allowances.

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“§ 1036. Escorts for dependents of members: transportation and travel allowances

“Under regulations to be prescribed by the Secretary concerned, round trip transportation and travel allowances may be paid to any person for travel performed or to be performed under competent orders as an escort for dependents of a member of the armed forces, if the travel is performed not later than one year after the member—

“(1) dies;

“(2) is missing or

“(3) is otherwise unable to accompany his dependents;

and it has been determined that travel by the dependents is necessary and that they are incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.”; and

Section 3(a) of the act of August 10, 1956, chapter 1041, as amended (33 U.S.C. 857a(a))

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EXISTING LAW

THE BILL

SEC. 3. (a) The rules of law that apply to the Armed Forces under the following provisions of title 10, Armed Forces, United States Code, including changes in those rules made after the effective date of this Act, apply also to the Coast and Geodetic Survey:

(1) Chapter 61, Retirement or Separation for Physical Disability.

(2) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(3) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(4) Chapter 73, Annuities Based on Retired or Retainer Pay.

(5) Chapter 75, Death Benefits.

(6) Section 2771, Final Settlement of Accounts: Deceased Members.

(7) Such other provisions of subtitle A as may be adopted for applicability to the Coast and Geodetic Survey by any other provision of law.

Section 221(a) of the Public Health Service Act, as amended (42 U.S.C. 213a(a))

SEC. 221. (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10, United States Code.

(1) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

SEC. 3. (a) The rules of law that apply to the Armed Forces under the following provisions of title 10, Armed Forces, United States Code, including changes in those rules made after the effective date of this Act, apply also to the Coast and Geodetic Survey:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability.

(3) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Annuities Based on Retired or Retainer Pay.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final Settlement of Accounts: Deceased Members.

(8) Such other provisions of subtitle A as may be adopted for applicability to the Coast and Geodetic Survey by any other provision of law.

Section 221(a) of the Public Health Service Act, as amended (42 U.S.C. 213a(a))

SEC. 221. (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10, United States Code:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

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(5) Chapter 75, Death Benefits.

(6) Section 2771, Final settlement of accounts: deceased members.

(7) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

THE BILL

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